

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ERROLL D. HARTWELL, #51965

PETITIONER

V.

CIVIL ACTION NO. 3:23-CV-552-TSL-ASH

BURL CAIN

RESPONDENT

ORDER

This cause came on this date to be heard upon the report and recommendation of United States Magistrate Judge Andrew S. Harris, and the court, having fully reviewed the report and recommendation entered in this cause on January 13, 2025, and no objection having been filed and being duly advised in the premises, finds that said report and recommendation should be adopted as the opinion of this court.

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate Judge Andrew S. Harris on January 13, 2025, is hereby adopted as the opinion of this court.

Accordingly, it is further ordered that respondent's motion to dismiss is granted and that the petition for writ of habeas corpus, filed pursuant to § 2254, is hereby dismissed.

It is further ordered that a certificate of appealability is denied. Petitioner has failed to show that reasonable jurist would the court's assessment of petitioner's due process claim debatable or wrong. See Slack v. McDaniel, 529 U.S. 473, 484, 120

S. Ct. 1595, 146 L. Ed. 2d 542 (2000). He has further failed to show that, as to the putative equal protection claim, that jurists of reason would find it debatable whether the application "states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Id.

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 6th day of February, 2025.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE